837 Adultery by the Mongol code and also by the Kazak code credited to the Khan
684 Tiavka,[56] was punishable by death. Zaleskie[57] describes the unpleasant fate of adulterers. Adultery, however, in later times, came to be considered largely in the light of an offense against property for which compensation might be offered if it were acceptable to the husband. A wife might leave her husband and live with her lover provided the latter paid a bride price to the husband.[58]

595 It is difficult to distinguish between marriage and concubinage. My informants knew that Mohammedan law permitted a man only four wives but thought that additional women living regularly with him would also be wives. If he had obtained them by paying kalym they certainly would be. Grodekov says that a man might have as many wives as he wished, but if he had more than four he was expected to maintain sex relations only with the last four in the order of their acquisition.[59]

834 Sexual hospitality seems to have been unknown as an accepted practice. Grodekov writes:[60]

> Although the custom of sexual hospitality exists . . . in Siberia, in the south there is little of it. In one issue of statistical materials for the Turkestan district there is mentioned a custom by which the guest might place his hands three times on the breasts of a sleeping girl and if she did not push him away this was taken to indicate her acquiescence. The bii Kansev [one of Grodekov's informants] denied any such right of the guest, saying "Such a thing could not be and would not even be mentioned."

My informants were mildly shocked at the suggestion, but one of them said that although a man certainly would not offer his wife or daughter to an overnight guest, yet if the guest happened to find favor in the eyes of a daughter she might join him of her own accord after the parents were asleep.

MARRIAGE

584 First marriages were usually arranged by the parents of the parties concerned, who, especially the girls, had very little voice in the choice of their mate. Grodekov,[61] however, indicates that a girl might break off an engagement with a distasteful fiancé but if she " . . . has been engaged from four to eight years the engagement is considered a marriage and she may not break it off if the man is unwilling." Also the privilege of the girl to at least protest is indicated by the curious statement: "When the daughter of a rich man or of a butcher attains the age of ten, or of a poor man fifteen, then the adat [customary law] permits a declaration from her concerning a reluctance to marry the man chosen by her father." Grodekov explains the inclusion of the butcher's daughter by saying that " . . . the daughter of a rich man, who eats well, and of a butcher, who lives on meat, reach their

55 Riazanovskii, Customary Law of the Mongol Tribes, 57.

[56] Levshin, *Description des hordes*, 395.

[57] *La Vie des steppes*, 23.

[58] Dingelstedt, *Le Droit coutumier*, 151.

[59] *Loc. cit.*

[60] *Kirgizy i Kara-kirgizy*, 93.

[61] *Idem*, 36.

586 among the relatives. The groom's father is the first to give to the contribution. This property remains with the husband in the case of divorce.

According to Umurbek, the children of divorced parents remain with the father, but an amicable agreement can be reached
587 and the young ones granted to the mother. According to Mikebai,
429 often the relatives will not permit a minor son to go to the new husband of the widow. A grown son has freedom of choice. The first of the daughters always goes with the mother, and the others remain with the successors. Now, however, the daughters too have the right to give consent or not.

Among the Kirgiz, Kurpetai Daulekulov reports that the sons and daughters remain with the father's relatives after his death. If there are several daughters the biis may allot the youngest one to the mother. According to the report of the Kirgiz Daniyar, a widow who marries a close kinsman of her husband, takes property with her and a young son. But if she marries a strange man she receives neither property nor the son, and the kalym which comes for her goes to the brothers of the deceased and in part for the use of her children. A divorced woman also fails to receive property or her son.

182 If the step-father is killed, the step-son does not have the
593 right to claim wergeld. Likewise if the step-son is killed, the step-father has no right to demand wergeld. The wergeld is demanded by the closest kinsmen, and the step-father or the step-son can only receive a reward for the expenses born by them for the burial. The step-father has a right to demand wergeld for his own use for a killed step-son only if there are no other kinsmen.

593 /93/ The wife does the work her husband directs her to do.
562 She is not allowed to argue (erkbermeymiz). In the absence of the husband the wife feeds herself from his livestock. Even if there are no means of life for a long time, she still cannot marry another because of this.

593 There is no obstacle preventing a husband who is absent for
562 a long time from entrusting or reconveying his wife to another. Only
837 the latter is not customary. (1)

1. According to Makovetskii, I.P. 24, this happens: "the biis refuse a husband who claims the wife who has been sold."

Only daughters given to ishans as a gift (nazyr), not wives.

The custom of hetaeristic hospitality exists in secret in the north and in Siberia, but less in the south. In one of the volumes of the Materialy dlia statistiki Turkestanskago kraia, a custom is mentioned where a guest puts his hand on the bosom of a sleeping maiden three times, and if she does not push it away, it signifies her agreement. Bii Sultan Kanaev denied such a right of the guest, adding: "This is unthinkable" (ol suz imes).

A wife and children who have not received their allotment do not have any property. If the wife lives with her husband, she takes part with him in the use of the property (malyna sirik). But she cannot manage the property under her supervision (khatyn biyleb mal beralmeydi). In the absence of the husband she manages the property. For example, on the demand of her husband's friend (tamyr), if he is dependable (isenimdi) she gives him things for his use, or gives them to him as a gift. When the husband returns he may not give his consent, and then the gift is taken back. The same thing takes place with an object sold by the wife in the husband's absence, in accordance with the opinion that "women have half a mind" (khatynnyng akyly yarymdyk) and according to the proverb: "a woman is without a mind, a frog is without a tail" (khatyn akylsiz baka kuyruksyz).

Among the Kirgiz, spouses have common property (inchiles). Wergeld for a wife is not received by her husband, but by her clan. If she /94/ was wounded by someone, the fine for the wound, if the fine was called aibom, is received by her husband. But if this fine was recorded in the decision under the name of wergeld, then it is received by the kinsmen of the wife.

The wife who goes away from her husband does not take anything wiht her (according to Abdrakhman, of the Auliye-Ata uyezd). Maykut (Auliye-Ata uyezd) transmits the information that in antiquity like the Siberian indigenous peoples according to Samokvasov, the property of the childless deceased wife, consisting of her clothing, fur coat, rug, blanket, bridal headdress and kerchief, is returned to her father or the person who married her off with this dowry.

If a wife complains of the squandering or unprofitable exploitation of property by her heedless husband the bii does not accept such a suit in his examination, but sends her to the nearest aksakals, clan chiefs and authoritative kinsmen.

A wife may trade only with the agreement of her husband. A widow (tulkhatun) is not prevented from trading.

A wife appears in court: 1) on matters of offense by the husband, etc., 2) in place of minor children, in the absence of her husband or

588 question, if they do not come to terms with their lovers, demand payment in court for their service. Such a complaint took place in the Kazalinsk uyezd in 1887, by a woman who had lived with a man more than 10 years. The bii rejected her suit against the man.

586 If after the departure of the husband a child is born after 9 months and 10 days or more, the husband divorces the wife, and she 837 marries her lover, who pays the former husband a kalym, either his daughter or a kinswoman. If the husband does not wish a divorce, he 848 receives the wife with the strange child and a fine from the lover of 2-3 camels (in former times he received a full kalym). If the child was conceived by the lover, but not during the absence of the father, it is considered the lawful child of the husband. According to Torgai, children of widows, born out of wedlock, remain /97/ with her until her death. Before she dies they ask about their father and look for him.

848 It is impossible to speak of illegitimate children of unmarried girls, according to Torgai, for on the steppe all the girls marry (kyz dalada kalmaydy). In the Kazalinsk uyezd such children are buried in the ground. According to Aleksandrov and Makovetskii, a child born of a widow and the brother of her deceased husband is considered a legitimately born member of the family. (1)

1. Staff Captain Grombchevskii reports the following concerning the attitude of the Kirgiz of the Fergana region to illegitimate children. Bringing a child into the world from fornication not only covers the family of the girl with shame, but also her entire clan. In order to avoid the scandal they try to marry the girl upon the first signs of pregnancy. When this is not successful, they have recourse to stopping the prenancy. This is either done mechanically, or by giving the patient an infusion of the "usma" plant, or finally they put the child to death immediately after birth. Illegitimate children do not succeed the father, and are usually banished from the village as soon as they are big enough to herd livestock or to support themselves by other means. They are called kharam, kharmzade, valadizina, and in the Ketmen-Tiube volost also gartakum (born of a libertine). There are cases, however, when the birth of a child out of wedlock is not considered a scandal, namely, 1) from a groom and bride, if they later marry, 2) from a widow and

[847]